

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

SIXTY ACRES, INC.

AI # 82164

PROCEEDINGS UNDER THE LOUISIANA

ENVIRONMENTAL QUALITY ACT

LA. R.S. 30:2001, ET SEQ.

*

*

*

*

*

*

*

*

*

SETTLEMENT TRACKING NO.

SA-SE-06-0017

SETTLEMENT

The following Settlement is hereby agreed to between Sixty Acres, Inc. ("Respondent") and the Department of Environmental Quality ("DEQ" or "the Department"), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. ("the Act").

I

Respondent is a corporation that owns, and formerly operated, a solid waste disposal site, known as the Sixty Acres, Inc. Landfill located at Range 9 East, Township 12 South, Section 39 in St. Charles Parish, Louisiana ("the Facility").

II

On or about December 5, 1986, the Department issued to Respondent a Penalty Assessment, Enforcement No. S-P-87-0008, in the amount of \$10,000.00, which was based upon the following findings of fact:

1. Failure to limit the volume of paper to the maximum allowed;
2. Failure to prevent the disposal of unspecified waste, i.e. allowing the disposal of non-construction/demolition debris and allowing the disposal of commercial waste;

3. Failure to prevent the disposal of hazardous waste (auto batteries) and domestic/putrescible waste;
4. Failure to prevent the disposal of waste in standing water (swamp);
5. Failure to control/prevent litter;
6. Failure to apply interim cover every 80 loads or every 2 months;
7. Failure to maintain adequate records.

III

In response to the Penalty Assessment, Respondent made a timely request for a hearing. The Administrative Law Judge rendered findings of facts and conclusions of law which assessed a penalty of TWENTY THOUSAND NINE HUNDRED NINETY-NINE AND 53/100 DOLLARS (\$20,999.53). The respondent appealed this decision to the First Circuit Court of Appeals, which upheld the decision of the Administrative Law Judge.

IV

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

V

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00). The total amount of money expended by Respondent on cash payments to DEQ as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

VI

Respondent further agrees that the Department may consider the inspection report(s), the Penalty Assessment, the recommendations of the administrative law judge and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VII

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

VIII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in St. Charles Parish, Louisiana. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted a

proof-of-publication affidavit to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

X

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Darryl Serio, Office of Management and Finance, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

XI

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his/her respective party, and to legally bind such party to its terms and conditions.

SIXTY ACRES, INC.

BY: Joseph B. Buccola
(Signature)

Joseph B. Buccola
(Printed or Typed)

TITLE: President

THUS DONE AND SIGNED in duplicate original before me this 16th day of MAY, 20 06, at HARVEY, TEFF, LA.

CARLOS J. SAVONA
NOTARY PUBLIC No. 13063
STATE OF LOUISIANA
PARISH OF JEFFERSON
UNITED STATES OF AMERICA
MY COMMISSION IS FOR LIFE

Carlos J. Savona
NOTARY PUBLIC (ID #)
CARLOS J. SAVONA #13063
LOUISIANA NOTARY
LIFETIME COMMISSION
(Printed or Typed)

**LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY**

Mike D. McDaniel, Ph.D., Secretary

BY: Harold Leggett
Harold Leggett, Ph.D., Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 7th day of August, 20 06, at Baton Rouge, Louisiana.

Carolyn O. Bryant
NOTARY PUBLIC (ID # 24983)
Carolyn O. Bryant
(Printed or Typed)

Approved: Harold Leggett
Harold Leggett, Ph.D., Assistant Secretary